

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd day of April 1998

BEFORE

THE HON'BLE MR. JUSTICE V. P. MOHAN KUMAR

WRIT PETITION NO. 11293 OF 1998

Between:

M/s. Spices Trading Corporation Ltd.,
No. 72, Nandidurga Extension,
Bangalore.

Represented by its Finance

Manager Sri-Devaraje Gowda

... Petitioner.

(By Sri S. Narayana, Advocate).

And:

1. The Addl. Dy. Commissioner of
Commercial Taxes,
Asst. VIII B.C.D. I
Bangalore

2. The State of Karnataka
Represented by its Secretary
to Industries & Commerce
Vidhana Soudha
Bangalore.

... Respondents.

(By Smt. S. Sujatha, GP).

...2/-

This writ petition is filed under Articles 226 & 227 of the Constitution of India praying to declare that R -1 giving three days time to file objection and thereafter concluding the proceedings within three days from the date of the service by the order dt-28-3-98 in Annexure-C is opposed to the principles of natural justice and glaringly contrary to law to sustain the same, etc.

This writ petition coming on for preliminary hearing this day, the Court made the following:-

O R D E R

I have heard Mr.S.Narayan, learned counsel for the petitioner as also Mrs.Sujatha, learned Government Pleader. The grievance of the petitioner is that the show-cause notice invoking Section 12-A Annexure-K was issued on 18-3-98 and was served on him on 21-3-98. He was granted three days time to file his objections. He submitted Annexure-D application seeking time till 10-4-98. Without considering his request the impugned assessment order is passed by the respondent and Annexure-D has been issued.

2. There is a right of appeal against the order

...3/-

passed by the 1st respondent under Section 20. Nevertheless in the facts and circumstances of the case as the assessment has been completed without considering the petitioner's application for a reasonable time I feel that the petitioner need not be driven to the appellate Court. As such there was no fair opportunity to defend the assessment and the same cannot be sustained. Taking note of all these circumstances the ends of justice will be met if the assessment order is set aside and the petitioner is granted time till 20-4-98 to file his objections to the proposition notice. The respondents may pass appropriate assessment orders on the basis of the objections filed.

Writ petition is disposed of.



rsk

Sd/-
JUDGE